

Message Text

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PAGE 01 BRASIL 10927 231923Z

71

ACTION ARA-10

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R 231825Z DEC 75

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 3075

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 10927

E.O. 11652: GDS

TAGS: PINT PINS SHUM BR

SUBJECT: ARMY COMPLETES PROBE OF JOURNALIST'S DEATH

REF: BRASILIA 10915

SUMMARY: ARMY RELEASED DECEMBER 20 SUMMARY OF FINAL REPORT OF TWO-MONTH LONG INVESTIGATION OF DEATH WHILE IN DETENTION OF SAO PAULO NEWSMAN VLADIMIR HERZOG. DRAWING ON TESTIMONY OF MEDICAL EXPERTS, FELLOW NEWSMEN AND PRISONERS, AND FAMILY AND ACQUAINTANCES IN SAO PAULO JEWISH COMMUNITY, SUMMARIZED REPORT CONFIRMS INITIAL MILITARY EXPLANATION THAT SUICIDE WAS ENTIRELY VOLUNTARY, RULED OUT POSSIBILITY OF FOUL PLAY, AND FOUND NO EVIDENCE OF MISTREATMENT. REPORT ALSO POINTS UP TESTIMONY THAT HERZOG WAS MEMBER OF COMMUNIST PARTY WITH HISTORY OF PSYCHIATRIC CARE. REACTION IN PRESS AND POLITICAL CIRCLES HAS SO FAR BEEN SCANTY BECAUSE OF CHRISTMAS LULL, POSSIBLY COUPLED WITH THE UNREMARKABLE AND PREDICTABLE TONE OF THE REPORT'S FINDINGS.

1. BRAZILIAN PRESS DECEMBER 20 CARRIED SUMMARY OF FINAL REPORT (WHICH REPORTEDLY MORE THAN 300 PAGES LONG) OF SPECIAL INVESTIGATION OF DEATH OCTOBER 25 OF TV JOURNALIST VLADIMIR HERZOG WHILE IN MILITARY CUSTODY IN SAO PAULO. CONCLUSION OF REPORT
CONFIDENTIAL

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PAGE 02 BRASIL 10927 231923Z

ACCEPTS FOLLOWING FINDINGS:

SECURITY OFFICIALS SUMMONED HERZOG TO DOI OCTOBER 24, ALREADY AWARE FROM PREVIOUS TESTIMONY OF FELLOW JOURNALISTS OF HIS LINKS WITH COMMUNIST PARTY. HERZOG WAS ALLOWED TO COME ON HIS OWN TO DOI SO AS TO NOT INTERFERE WITH PREVIOUS TV COMMITMENT. DURING QUESTIONING, HERZOG INITIALLY DENIED ANY PCB LINKS, BUT SUBSEQUENTLY CONFESSED AND PREPARED WRITTEN STATEMENT, AFTER BEING CONFRONTED WITH TESTIMONY OF FELLOW JOURNALISTS. HERZOG THEN TORE UP CONFESSION AND HANGED HIMSELF IN HIS CELL WITH CLOTH BELT FROM HIS PRISON COVERALLS. ARMY INVESTIGATOR FOUND NO EVIDENCE THAT WOULD SUPPORT HYPOTHESIS OF "HOMICIDE-SUICIDE", THAT SUICIDE WAS INDUCED OR INSTIGATED, OR THAT HERZOG WAS GIVEN MATERIAL AID IN CARRYING IT OUT. REPORT ALSO FOUND NO EVIDENCE OF PHYSICAL MISTREATMENT OF HERZOG BY HIS CAPTORS. WHILE OFFERING NO MOTIVE FOR SUICIDE-STRESSING THAT HERZOG HAD ALREADY BEEN NOTIFIED THAT HE WOULD BE RELEASED SAME DAY--, REPORT DOES MAKE POINT THAT HERZOG HAD RECEIVED PSYCHIATRIC TREATMENT BEGINNING IN 1971, BUT THAT PROFESSIONAL ETHICS BARRED ATTENDING PSYCHIATRIST FROM PROVIDING DETAILS. REPORT FINDS NO EVIDENCE OF ANY OFFICIAL OR POLICE INTERFERENCE IN HERZOG'S BURIAL, NOTING THAT IN ACCORD WITH JEWISH CUSTOM COFFIN WAS NOT REOPENED AND THAT HERZOG WAS BURIED IN AREA OF JEWISH CEMETERY SET APART FOR SUICIDES. REPORT CONCLUDED THERE WAS NO EVIDENCE OF ANY INDICATION OF COMMISSION CRIMINAL ACT UNDER MILITARY PENAL CODE OR OF ANY OTHER DISCIPLINARY TRANSGRESSION OR ILLEGALITY.

2. PREPARED BY ARMY BRIG. GEN. FERNANDO GUIMARAES DE SEQUIERA LIMA, REPORT SUMMARIZED EVIDENCE PRESENTED BY FORENSIC MEDICINE INSTITUTE AND CRIME LABORATORY DIVISION OF SAO PAULO STATE SECURITY SECRETARIAT INCLUDING FINDINGS OF INDEPENDENT FORENSIC MEDICINE SPECIALIST AT UNIVERSITY OF SAO PAULO. REPORT ALSO DRAWS HEAVILY ON A) TESTIMONY OF EIGHT JOURNALIST ASSOCIATES OF HERZOG, SEVERAL OF WHO IDENTIFIED AS FELLOW MILITANTS IN BRAZILIAN COMMUNIST PARTY; B) TESTIMONY BY OFFICER IN CHARGE OF INTELLIGENCE OPERATIONS DETACHMENT (DOI) IN SAO PAULO, COL. JOSE BARROS PAES, AND THREE SUBORDINATE OFFICIALS DIRECTLY INVOLVED IN HERZOG CASE; AND C) FINALLY, SUMMARIES OF STATEMENTS BY MOTHER AND WIFE OF HERZOG AND FIVE FAMILY ACQUAINTANCES AND FELLOW MEMBERS OF SAO PAULO JEWISH CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BRASIL 10927 231923Z

COMMUNITY, WHO WERE FAMILIAR WITH CIRCUMSTANCES OF HERZOG BURIAL. SUMMARIZED TESTIMONY OF SEVERAL WITNESSES BROUGHT OUT POINTS THAT HERZOG WAS KNOWN MEMBER OF PCB, THAT CONFESSION NOTE WAS IN HIS HANDWRITING, THAT HERZOG HAD HISTORY OF PSYCHIATRIC DISORDERS, AND (FROM FRIENDS AND RELATIVES WHO AIDED AT BURIAL AS WELL AS MEDICAL SPECIALISTS) THAT BODY BORE NO MARKS OTHER THAN THOSE LEFT BY NOOSE.

3. ACCOMPANYING REPORT WAS BRIEF PREFATORY STATEMENT SIGNED BY GENERAL EDNARDO D'AVILLA MELLO, COMMANDER OF SECOND ARMY AT SAO PAULO, ACCEPTING REPORT, ORDERING ITS PUBLICATION, REMITTING ATTENDANT TESTIMONY TO THE MILITARY TRIBUNALS, AND ORDERING THE REPORT FILED AWAY.

4. COMMENT: NO ONE REALLY EXPECTED THE ARMY TO INDICT ITSELF, AND NO ONE IS SURPRISED BY THE RESULTS OF THE INVESTIGATION. REACTION TO THE REPORT SO FAR HAS BEEN SCANTY AND MUTED. PARTIAL EXPLANATION FOR THIS MAY LIE IN TIMING OF RELEASE OF REPORT DURING DEPTH OF PRE-CHRISTMAS LULL WHEN CONGRESS AND THE UNIVERSITIES ARE IN RECESS AND MUCH OF BRAZIL EITHER ON VACATION OR ANTICIPATING IT. PRESS REACTION SO FAR, PARTICULARLY THAT OF ESTADO DE SAO PAULO, WHICH MADE MAJOR ISSUE OF HERZOG AFFAIR WHEN IT OCCURRED IN OCTOBER, HAS BEEN, PERHAPS SIGNIFICANTLY, MUFFLED. WHILE WE DO NOT RULE OUT GOVERNMENT DISCOURAGEMENT OF EDITORIAL COMMENTARY, POSSIBLE ALSO THAT PRESS OBSERVERS FEEL REPORT SPEAKS FULLY FOR ITSELF AND THAT IT WOULD BE BOTH IMPRUDENT AND UNAVAILING PUBLICLY TO QUESTION THE WORD OF SENIOR MILITARY OFFICERS.

5. REPORT HAS A CUT AND DRIED FLAVOR WHICH MAY REFLECT ON ITS CREDIBILITY. TESTIMONY OF WITNESSES APPEARS TO HAVE BEEN HIGHLY CONDENSED AND IS REMARKABLY UNIFORM. NO INDICATION THAT INVESTIGATION PROCESS ALLOWED FOR CROSS EXAMINATION OR ADVERSARY APPROACH. AND REPORT DOES NOT EVEN CONTAIN MINIMUM REPROACH TO AUTHORITIES FOR SIMPLE NEGLIGENCE, WHICH MIGHT HAVE GIVEN IT GREATER BALANCE. ATTORNEYS RETAINED BY THE JOURNALIST UNION MADE STATEMENT DAY OF RELEASE PROFESSING THEIR INABILITY TO COMMENT ON REPORT SINCE THEY HAD NOT BEEN ALLOWED TO SEE THE ORIGINAL TRANSCRIPTS OF TESTIMONY (REPORT NOTES THAT, AS MILITARY PENAL TRIAL CODE PROVIDES, ATTORNEYS WERE NOT ALLOWED TO BE PRESENT AT TAKING OF TESTIMONY). ATTORNEYS' STATEMENTS STRESS THAT ACCORDING CONFIDENTIAL

CONFIDENTIAL

PAGE 04 BRASIL 10927 231923Z

TO COMMON JURISPRUDENCE, PROSECUTORS OF A CASE NEVER ORDER AN INVESTIGATION TO BE FILED AWAY UNTIL ALL POSSIBILITIES OF DISCOVERING THE TRUTH HAVE BEEN EXHAUSTED. ESTADO DE SAO PAULO PUBLISHED SHORT STATEMENT ALONG WITH TEXT OF REPORT NOTING INCONSISTENCIES IN TESTIMONY REGARDING DATE AND CIRCUMSTANCES OF TERMINATION OF HERZOG'S SERVICE WITH THAT PAPER AND DENYING THAT ESTADO HAS EVER "PURGED" LEFTIST FROM ITS STAFF OR REQUIRED "IDEOLOGICAL CERTIFICATES" FROM ITS EMPLOYEES, AS TESTIMONY OF ONE NEWSMAN AND DOI OFFICER CLAIMED.

6. FURTHER COMMENT ON BACKGROUND AND IMPACT OF INVESTIGATION PROVIDED IN SAO PAULO 2722 WHICH BEING REPEATED TO DEPARTMENT SEPARATELY (AS BRASILIA 10915).
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